MR. M. K. GOPALA PILLAI: I second it.

The motion was put to vote and carried.

The Bill was referred to the Select Committee.

THE TRAVANCORE PROVIDENT FUNDS BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I rise to introduce the Travancore Provident Funds Bill. There is a State Provident Fund intended for Government servants. It is worked under a certain set of rules made by Government. As the fund is created for certain purpose, the rules framed for carrying out the purpose are sometimes at variance with the general law, especially when third party rights are sought to be enforced. The fund has to be protected against voluntary alienation and alienation by process of law. The rules re: this can have legal sanction only if there is a statutory back ground for the same. Power is also proposed to be conferred on Government to extend the provisions of the Act to other Funds also. I move that the Bill be read.

MR. M. K. GOPALA PILLAI: I second the motion.

The motion was put to vote and carried.

SECRETARY: The title of the Bill shall be "The Travancore Provident Funds Bill".

MR. PUTHUPALLI S. KRISHNA PILLAI: I move that the Bill be referred to a Select Committee consisting of the following members:—

Messrs.
1. S. Chattanatha Karayalar,
2. D. Francis,
3. S. Govinda Pillai,
4. N. V. Joseph,
5. Joseph Vithayathil,
6. K. C. Karunakaran,
7. M. R. Narayana Pillai,
8. P. Kunjukrishnan,
9. P. Sivarama Pillai,
10. P. S. Muhamed and,
11. M. Sivathanu Pillai.

The Select Committee to report within 3 months.

MR. M. K. GOPALA PILLAI: I second the motion.

The motion was put to vote and carried.

THE TRAVANCORE DEBT RELIEF BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I now propose to introduce the last of the official bills tabled for introduction in this House during this session. Before formally moving that the Bill be read in the Assembly I wish to make some introductory remarks in order that the honourable members may more correctly appreciate the principles involved in this Bill.

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Sir, in preparing this Bill, Government had the privilege and as the draftsman of the Bill I had the opportunity of perusing the very valuable report submitted by the Debt Relief Enquiry Committee. In certain respects their recommendations have been accepted in full and in one or two important respects Government have found it expedient to be more liberal. No doubt they have not been able to agree with the Committee in one or two other matters, but they are merely matters of detail which in my opinion have not necessitated any matorial deviation in principle. The Committee's opinion that the difference between agricultural and non-agricultural debts is insignificant so far as this State is concerned has been adopted by Government and the Bill seeks to bring within its scope all debts which the Committee proposed to bring in. But Government have gone one step further. By the definition of the word 'Debtor' proposed by the Committee, they have excluded debts due from incorporated companies, but Government have included such debts also for purposes of the Bill. It only stands to reason that debts due from them also should be brought within the scope of this Bill, as otherwise it is likely to lead to inconvenient, nay disastrous results as far as such institutions are concerned. The Committee's recommendation was that debts due to them may be scaled down, but that debts due from them should be left unaffected. If this is so, every incorporated company will be driven to the painful necessity of applying for voluntary liquidation, because all the debts due to them will be scaled down, and every debt due from them will have to be paid in full. Government have decided that such a result should be avoided as far as possible. They have therefore proposed to bring within its scope debts due to and from incorporated companies. In the earlier stages of the debates on debt relief measures, there was some opinion in this House that a distinction should be maintained between small debts and big debts. Government were also inclined to adopt that view. On further consideration they have decided to adopt the Committee's opinion. The Committee's recommendation regarding exclusion of certain classes of debts has also been adopted by Government. These are enumerated in Clause 4 of the Bill. It will be noticed that to the few items suggested by the Committee Government, have added one more namely the balance of purchase money in respect of which a vendor's lien exists. In all places where debt relief legislation is in force, this class of debt has been excluded. It is in the interest of the bulk of the people in this State that such debts should be excluded. I may state here a word about "trade debts." Honourable members will note that the Debt Relief Enquiry Committee suggested that trade debts should be excluded. Government have adopted that suggestion. According to the Committee such debts are the balance due for value of articles purchased for purposes of trade and which balance is due under running accounts in operation at the present moment. By excluding all debts incurred after 1112, balance due under accounts in operation would stand excluded. By excluding the price due for articles purchased, trade debts as defined by the Committee would be completely

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excluded. It may however be noted that the exclusion made in the Bill is more comprehensive than the Committee's recommendation. Under the Bill the value of articles purchased not only for purposes of trade, but for any purpose whatsoever will stand excluded. But Government could not reconcile themselves to the position that our agriculturists and industrialists from whom articles have been purchased by others should go without the fruits of their labours—the price of the goods produced and sold. Our agriculturists sell their produce every two months and in most cases such sales take place on credit. Government are not willing to be a party to such a measure. Our retail traders who owe money to the wholesale merchants would be materially affected if the Committee's proposal is adopted in its entirety, for while such traders will be compelled to pay in full, their constituents can claim the privileges under the enactment. This is likely to bring to a premature termination the bulk of our traders who cater to the wants of the public. There are other reasons as well. Take the case of those persons from whom our people have purchased articles of necessaries. Everybody purchase rise, paddy, condiments and various other articles necessary for food. Those persons who sell them do not grow these things in their gardens, but purchase them from outside. Most of them purchase on credit. It will rather stifle or even destroy the system of trade that is being carried on if we are to provide that the price of these articles need not be paid. You have taken these articles, consumed them, have grown fat on them. You should not be heard to say that you do not want to pay. Government are confident that it will be a suicidal policy to afford relief against such indebtedness.

Further, Government are more determined in the case of another set of people. There are several persons who have purchased articles of luxury. To adopt the recommendations of the Committee would be to afford protection in those cases. In order that all these debts may be excluded, I have proposed that money due as price of articles purchased for any purpose whatsoever should be excluded from the Bill. It is hoped that Government's view points will be appreciated by the honourable members. The recommendation of the Committee regarding exclusion of usufructuary mortgages subject to certain exceptions have been adopted by Government.

The burden of indebtedness is accentuated more by the accumulation of interest than by the debt itself. The Committee recommended varying rates for future interest, but in no case less than 4½ per cent. and in some cases going as high as 9 per cent. A reference to Clause 11 will show that Government have not adopted this view but have proposed a uniform rate of 4 per cent. in the case of money debts and 3 per cent. in the case of paddy debts. This is one step in advance of the Committee's view. Debts incurred before 1112 and remaining due on the date of the commencement of the Act, that is, debts remaining unpaid for nearly 4 years can, more or less, be treated as debts which the debtors are not able to pay. If the debts are to increase by accrual of future interest, it may be that the creditor never gets back his

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money. Hence Clause 11. Power is taken by Government under Clause 7 to exempt any class of institutions from the provisions of the Act. Government as at present advised propose to grant the exemption to the Travancore Credit Bank, the Imperial Bank and the Reserve Bank of India. The recommendations of the Committee concerning cancellation of sales have been fully adopted. Vide Clauses 12 and 13.

I now come to Clauses 8, 9 and 10, the substantive provisions of the Bill. I have explained how and to what extent Government have adopted the views of the Committee. The main point on which Government have not been able to agree with the Committee relates to the reopening and resettlement of all debts. Their recommendation is that reduction shall be made by reopening all settled accounts by calculating interest at a lower rate and by refusing to recognise renewals. It must be remembered that reduction is made only for the purpose of enabling the debtor to pay. It should not be for the purpose of penalising the creditor for doing or getting what he was entitled to in law. The elementary principle involved in a debt is the undertaking to repay. This should not be forgotten in proposing any debt relief measure. While both have agreed that reduction may be made, they have decided that it shall be only by payment of a portion of the debt.

Government have taken into consideration the views of the contending parties and Government have had to properly weigh the justice or injustice underlying the demands. Some reduction has been found necessary. That principle has been accepted and reduction has been recommended in the case of persons who pay within certain periods after the passing of the Act. In the case of those who pay within one year, nearly one-third of the debt will stand reduced. In the case of those who pay within three years that debt will stand reduced by one-fifth. Then there may be persons who do not want any reduction but who want to pay what they have contracted to pay. These persons may want time since they cannot be sure when the yield from their property will enable them to repay. Clause 10 makes ample provision for such persons. These are the three different methods which the Government have adopted in regard to reduction and repayment of debts.

The only principle on which Government differed from the Debt Relief Committee is this—When should the reduction be made? Shall we begin the reduction and let alone repayment or shall we enforce repayment and effect reduction? Here are three privileges which are now conferred on debtors, privileges which they have not been in enjoyment ever since contract became a part of our law. According to these provisions the debtor is not to wait on the creditor. He has merely to say "I choose to pay only in accordance with either Secton 8, 9, or 10" and the creditor will then have to forego all the rights and privileges which he has been enjoying till then. Till now power has been conferred on the courts to grant time for repayment in instalments, up to 12 years but it is said that courts seldom exercise their discretion in favour of the debtors, and

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that the debtor has to establish various circumstances in his favour before the courts can be moved to the exercise of such discretion. But under the provisions of the Bill no circumstances need be established. The debtor has only to say that he chooses the privilege conferred on him by either Section 8, 9 or 10 and he will get the respective benefits. The debtor must make an honest endeavour to discharge an obligation and if he pays a definite portion, then the present Bill provides that he will be absolved from payment of balance.

A word more and I am done. We have not proposed to touch debts incurred after 1112. They are debts incurred on the faith of certain statutory provisions contained in the Agriculturists Relief Act. It does not appear to me that every three years we should unsettle our law, defeat expectations, destory hopes and unsettle monetary transactions. It will be a dangerous precedent if we are to adopt such a course. I do not want it to be said hereafter that this Bill after enactment would not be repealed by another Act thereby depriving the debtors of all the benefits which they had hoped to secure by payment. It is by our Act and by our attitudes that we must create confidence in the public mind that we will not lightly interfere with vested rights. In this particular respect Government have weighed the problems, the advantages and disadvantages arising out of these matters and it is proposed to confer certain special privileges on debtors, privileges, which are not being enjoyed by debtors elsewhere, privileges which no debtor in Travancore enjoyed till this date, and to offer opportunities for the purpose of liquidating his debt. Government are not in a position to agree to the principle of reducing the debt and leaving the parties in better position than they are at present. That will not be taking care of the interests of the creditor and the debtor in the State. In the newspapers various comments were being offered as to how the Bill should be improved or altered. The main principles have been explained. Any vast changes in any of these principles would certainly interfere with the structure and the scheme of the Bill now proposed; and, personally, Sir, I may not find it possible to agree to any of the views which, if adopted, would necessitate a vast change in the principles underlying the Bill. I should not be misunderstood as implying any disrespect to the House. Far from that. This is a matter which has been pending for the last one year and it is in the interests of all the classes concerned that the matter should be expeditiously disposed of. Either the debtor should have what he can get or the creditor should be left free to pursue his remedies. Any way, one thing is certain. We should either say that there is no relief to the debtors or that there is some relief to them. If the honourable members say that they do not want relief of this sort but some other more radical relief and Government do not find their way to adopt it, the debtors may go without a remedy and that will not certainly be advantageous to them. But there will be one thing definite about it. The creditors can pursue their own remedies and the debtors can have recourse to their rights. At present there are debtors who are ready and willing to pay but who do not pay because they expect some legislation affording them relief. The delay in the enactment has brought to a standstill all monetary

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transactions. But we want to completely wipe out that kind of feeling and the sooner we do that, the better will it be for the State. There must be some definiteness and finality in this matter. If it is beyond what Government can support, it is a case where the debtor goes without any relief. Otherwise, Government will be most willing to stretch a point in favour of either the creditor or the debtor. As I said, there must be some finality about this matter and that finality must be reached in the course of the deliberations during the next two or three days.

Sir, this is a Bill which deals with a matter on which there cannot be any unanimity of opinion If debts before a particular period are excluded, there are some chronic debtors who will complain that they do not get any benefit. If debts before a particular period are included, then the creditors will complain that all will be ruined. I have tried to be impartial and just to both parties. I leave the decision to the House. With these few words, Sir, I move that the Bill be read in the Assembly.

MR. M. K. GOPALA PILLAI: I second the motion.

SECRETARY: The title of the Bill shall be "The Travancore Debt Relief Bill."

PRESIDENT: I have received already five amendments. Apparently honourable members have sent in these amendments so that their views may be before this House. The question that the House will have to consider tomorrow would be what line the House will like to adopt. If a Select Committee is to be appointed and it is to take the usual three months, it will mean a long time. Would the honourable members be in favour of having a Select Committee which will report in a week or a few days or would they take the usual period of two or three months? All these matters will have to be decided by the honourable members because they will be directly before the House tomorrow. Any suggestion I shall gladly consider.

MR. KAINIKKARA M. PADMANABHA PILLAI: Some honourable members will have to speak on the general principles of the Bill. After that is over, it will be time to decide whether the Bill should be sent to the Select Committee or proceeded with directly.

PRESIDENT: We cannot proceed directly. Is it suggested that the whole House should go into Committee?

MR. KAINIKKARA M. PADMANABHA PILLAI: Yes, Sir.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: The House may be given an opportunity to discuss the principles and the provisions contained in the Bill.

PRESIDENT: Then the House will resume discussion tomorrow morning.

The House adjourned at 5-2 P. M.

A. GUNAMONY,
Secretary to the Sri Mulam Assembly.

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